

Administrative Rules Review Committee

November 19th, 2020

DABC

UTAH DEPARTMENT OF
ALCOHOLIC BEVERAGE CONTROL



Our Mission

- Conduct, license, and regulate the sale of alcoholic products in a manner and at prices that reasonably satisfy the public demand...
- Promote the reduction of the harmful effects of:
 - (a) Over consumption of alcoholic products
 - (b) Consumption of alcoholic products by minors, and
 - (c) Impaired driving
- Enforcing the Alcoholic Beverage Control Act in a way that is fair, impartial, consistent and equitable.



Civil Rights: §13-7-1 et seq.

- Purpose: To assure all citizens full and equal availability of all goods, services and facilities offered by business establishments and places of public accommodation and enterprises regulated by the state **without discrimination because of race, color, sex, pregnancy, religion, ancestry, or national origin.**
- **Prohibits discrimination** on the basis of race, color, sex, pregnancy, religion, ancestry, or national origin in business establishments or places of public accommodation or **in enterprises regulated by the state.**
- Such discrimination in **enterprises regulated by the state, violates the public policy of this state.**



Civil Rights: §13-7-1 et seq. (continued)

- **“Enterprise regulated by the state”** specifically includes “a place of business that sells an alcoholic product at retail as provided in Title 32B, Alcoholic Beverage Control Act.”

§13-7-4

- An enterprise regulated by the state who violates §13-7-3 is deemed a **public nuisance**.
- Grants to an aggrieved party a **civil cause of action for damages** and any other remedy available in law and equity” against the person who violated the rights or against anyone who aided or conspired in such.



32B-1-404

32B-1-404. Presentation of proof of age upon request.

(1) To obtain one or more of the following, an individual shall present proof of age at the request of a person listed in Subsection (2):

- (a) an alcoholic product;
- (b) admittance to a restricted area; or
- (c) employment that under this title may not be obtained by a minor.

(2) To determine whether the individual described in Subsection (1) is 21 years of age, the following may request a person described in Subsection (1) **to present proof of age:**

- (a) an authorized person;
- (b) a peace officer;
- (c) a representative of the State Bureau of Investigation of the Department of Public Safety, established in Section 53-10-301; or
- (d) **an authorized department employee.**



32B-1-403

32B-1-403. Unlawful transfer or use of proof of age -- False information.

(1)

- (a) It is unlawful for a person to transfer that person's proof of age to another person to aid that person:
 - (i) in procuring an alcoholic product;
 - (ii) in gaining admittance to a restricted area; or
 - (iii) in obtaining employment that under this title may not be obtained by a minor.

(b) A person who permits that person's proof of age to be used by another for a purpose stated in Subsection (1)(a) is guilty of a class B misdemeanor.

(2)

- (a) It is unlawful for a person to use a proof of age containing false information with the intent to:
 - (i) procure an alcoholic product;
 - (ii) gain admittance to a restricted area; or
 - (iii) obtain employment that under this title may not be obtained by a minor.
- (b) Except as provided in Section 32B-4-411, a person who violates this Subsection (2) is guilty of a class A misdemeanor



32B-1-408

32B-1-408. **Penalty.**

(1) Unless otherwise provided in this title, including Section 32B-4-411, a person who violates this part is guilty of a **class B misdemeanor**.

(2) A person is not subject to a penalty for a violation of this part if it is proved to the commission or the court hearing the matter that the person charged with the violation acted in good faith.



Why ask for identification?

Assess the legal purchase of the legal Drug called Alcohol

- a. It is illegal to sell to someone under the age of 21 years of age
- a. It is illegal to sell to people who may be intoxicated
- a. It is illegal to sell to adults over the age of 21 purchasing for minors



Consequences for an illegal sale to Minor

1. Cashier can be charged with a Class B misdemeanor for negligently selling to a minor
 - a. Up to a **\$1,000.00** fine
 - b. Up to **six months in jail**
2. If cashier knowingly sells to a minor it is a class A Misdemeanor
 - a. Up to a **\$2500.00** fine
 - b. Up to **364 days in jail**

Covert Underage Buyer Program (CUB)

- DABC has made 6 sales to CUBS from 2018- Present 32 attempts
- None of the cashiers that made these sales retained their positions



Daily Scenarios

1. A group of people enter the store –
2. Married couple enter the store -
3. Grandmother and 19 year old grandchild enter the store –
4. A group of shoppers place items on the counter -



Your call in five seconds

11,741,586 transactions from 3/1/2019-2/29/2020

A= Assess the customer and the situation

- Does customer have a valid id?
- Does the customer appear to be old enough?
- Does the customer appear intoxicated?
- Do you have reason to believe customer is purchasing for a minor?

I = Interview the customer

- Casual conversation
- Avoid yes or no questions
- Are id questions answered correctly?
- Check for slurred speech or odor of alcohol

D= Decide whether or not to sell.

- Acknowledge every customer
- Be vigilant

Your Call in five seconds cont.

Age assessment

43 Year old Mother with 19 Year old daughter.



19 Year old male.
SLC



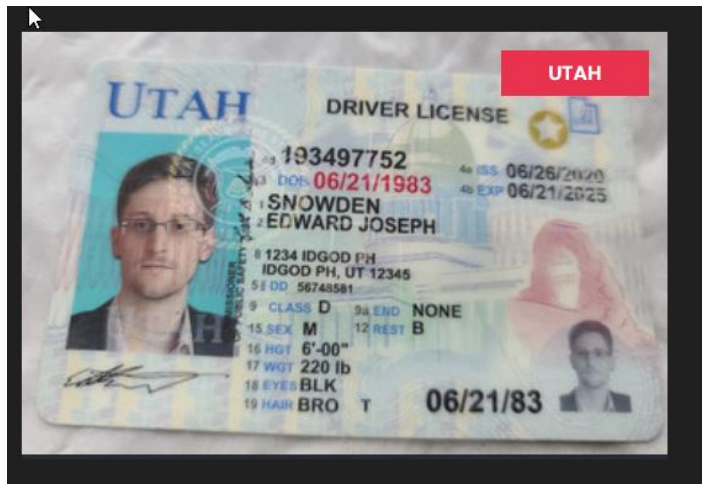
Minors altering their appearance





Fake and Altered IDs

- Confiscated Fake IDs
 - 250-300 Per Year
 - Majority Near Universities
- Availability
 - Internet. IDGOD.PH
 - \$50-\$100 Per Card
 - Scannable



Fake ID prices with discounts			
ALL ID's come with an exact duplicate, free custom signature and free shipping. This is the list with all of our fake ids, no other id is supported at this time.			
STATE	1 PERSON	2 OR MORE PERSONS EACH	4 OR MORE PERSONS EACH
Utah Current Issue Newest Version We Are The Only Ones That Make It!	\$100	\$60	\$50
Virginia Updated Sexy Template Current Issue!	\$100	\$60	\$50
Vermont Dob Before 5-21-1998	\$100	\$60	\$50
Washington Current Issue Yes It Has The Sexy Tree	\$100	\$60	\$50



DABC Policy 09-01 Control of Sales

Introduction: As an agency of state government, the Department of Alcoholic Beverage Control is mandated by statute with the responsibility of controlling the sale of alcoholic beverages. Of particular importance is keeping alcohol out of the hands of minors and intoxicated customers.

Utah Code Section 32B-4-403 states "A person may not sell, offer for sale, or furnish an alcoholic product to a minor." Section 32B-4-409 states it is unlawful for any minor to purchase, attempt to purchase, solicit another person to purchase, possess, or consume any alcoholic beverage or product. The penalty for a violation of these sections is a class A or a class B misdemeanor.

It is also unlawful to sell to intoxicated customers as outlined in Section 32B-4-404: "A person may not sell, offer for sale, or furnish an alcoholic product to a person who is actually or apparently intoxicated." This includes persons under the influence of alcoholic beverages and controlled substances.

Policy: Employees are required to complete the EASY Training class within 60 days of employment.

Minors: Minors cannot enter a liquor or wine store unless accompanied by a parent, legal guardian, or spouse that is 21 years of age or older. Signs prohibiting minors must be posted in a prominent place on doors or windows.

The department requires that store employees check the identification of every customer. Only four forms of ID are acceptable:

- 1) A current valid U.S. driver's license from any state provided it includes a date of birth and has a picture on it;
- 2) A current valid U.S. state-issued ID card with a date of birth and a picture on it;
- 3) A current valid U.S. military ID card with a picture and a date of birth on it; and
- 4) A current valid passport from any country.

Employees selling alcohol to minors will be subject to disciplinary action up to and including termination.

Intoxicated Customers: It is illegal for an employee to sell to an intoxicated person. When in doubt, refuse the sale. If a person becomes a problem after having been turned down, notify management, and if necessary, call the police.

At no time should an employee put himself or herself at physical risk in dealing with problem customers. In all situations, use good judgment.



DABC Policy 09-02 Sales to Minors

Introduction: This policy outlines penalties for sales made to a Law Enforcement and/or DABC covert underage buyer (CUB). CUB programs are to ensure employees follow proper procedures with regards to preventing sales to minors.

Policy:

Penalties for any employee who does not ask for ID:

First Offense		5 day suspension w/o pay
Second Offense	Within two years of first offense	Termination of employment

Penalties for any employee who asks for ID and/or uses Age Verification Device but still sells to minor CUB:

First Offense	Written Warning to manager	3 day suspension w/o pay
Second Offense	Within two years of first offense	5 day suspension w/o pay
Third Offense	Within two years of second offense	Termination of employment

Manager on Duty Penalties for employees selling to minor CUB:

First Offense	Written Warning to manager	Submit service plan*
Second Offense	Within two years of first offense	3 day suspension w/o pay
Third Offense	Within two years of second offense	5 day suspension w/o pay
Fourth Offense	Within two years of third offense	Subject to disciplinary action up to termination

Store Manager Penalties for employees selling to minor CUB (if not present in store):

First Offense	Written Warning to manager	Submit service plan*
Second Offense	Within two years of first offense	1 day suspension w/o pay
Third Offense	Within two years of second offense	3 day suspension w/o pay
Fourth Offense	Within two years of third offense	5 day suspension w/o pay
Fifth Offense	Within two years of fourth offense	Subject to disciplinary action up to termination



DABC Policy 09-02 Sales to Minors continued

In the event that a store fails a “CUB” visit, all store employees must attend additional E.A.S.Y. training.

***Manager will be required to submit a Responsible Alcohol Service Plan** outlining steps taken to prevent further sales to minors.

Responsible Alcohol Service Plan

A copy must be on the premises, accessible to all employees, or representatives of the DABC, or law enforcement agencies.

Plan must include, but not limited to, the following:

1. Outline store policies and procedures for employees to prevent sales of alcohol to minors.
2. Require that all employees and managers follow the plan.
3. Require that employees adhere to the plan as a condition of employment.
4. Require management to monitor employee compliance with the plan.
5. Require periodic training sessions on the legal forms of ID and identifying persons under the age of 21.
6. Discuss the potential criminal, civil and administrative penalties for selling alcohol to persons under the age of 21.

Continuous Daily Monitoring

The responsible alcohol service plan will only work if it is monitored for compliance daily (some form of daily sign-off is required). Regional managers will be checking for compliance during scheduled and non-scheduled visits to the stores.



A stylized graphic of the state of Utah. The outline of the state is a thick, dark blue-grey border. Inside, the background is a light teal color. Overlaid on this are several mountain peaks. The largest peak is white with an orange outline. To its right and slightly lower are two smaller orange peaks. Below these, there are more orange peaks of varying heights. The word "Questions" is written in a large, bold, dark blue serif font, centered over the mountain peaks.

Questions

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